

IN THE MATTER OF

BRANDON J. COBB

Applicant

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BEFORE THE

COMMISSIONER OF

FINANCIAL REGULATION

OAH NO.: DLR-CFR-76B-10-07967

FINAL ORDER

DATE 9/20/10

PROPOSED ORDER

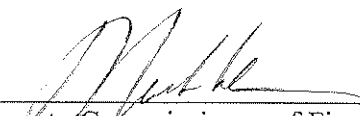
The Proposed Decision of the Administrative Law Judge in the captioned case having been considered in its entirety, it is **ORDERED** by the Commissioner of Financial Regulation (the "Commissioner") this 27th day of August, 2010 that the Proposed Decision shall be and hereby is adopted as a Proposed Order.

Pursuant to COMAR 09.01.03.09, Applicant has the right to file exceptions to the Proposed Order and present arguments to the Commissioner. Applicant has twenty (20) days from the postmark date of this Proposed Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). The date of filing exceptions with the Commissioner is the date of personal delivery to the Commissioner or the postmark date on mailed exceptions. COMAR 09.01.03.09A(2).

Unless written exceptions are filed within the twenty (20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner.

COMMISSIONER OF FINANCIAL REGULATION

By:


Deputy Commissioner of Financial Regulation

BRANDON J. COBB,

APPLICANT

v.

COMMISSIONER OF FINANCIAL
REGULATION

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BEFORE MARY R. CRAIG,

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AN ADMINISTRATIVE LAW JUDGE

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OF THE MARYLAND OFFICE OF

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ADMINISTRATIVE HEARINGS

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OAH CASE No: DLR-CFR-76B-10-07967

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PROPOSED DECISION

STATEMENT OF THE CASE
ISSUE
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DISCUSSION
CONCLUSIONS OF LAW
RECOMMENDED ORDER

STATEMENT OF THE CASE

On December 7, 2009, the Maryland Commissioner of Financial Regulation (CFR), Department of Labor, Licensing and Regulation (Department), denied the Applicant's application for a mortgage originator's license. On January 15, 2010, the Applicant filed an appeal, after which the CFR referred the matter to the Office of Administrative Hearings (OAH) for a hearing. The CFR delegated to the OAH the authority to issue proposed findings of fact and conclusions of law, and a recommended order. Under the terms of the delegation, a copy of this Proposed Decision will be mailed to the CFR only. Code of Maryland Regulations (COMAR) 09.01.03.08.

I held a hearing on April 29, 2010, at the OAH in Hunt Valley, Maryland. Md. Code Ann., Fin. Inst. § 11-608 (Supp. 2009). Jedd Bellman, Staff Attorney, represented the CFR. The Applicant represented himself.

..... Procedure in this case is governed by the Administrative Procedure Act, Md. Code Ann.,.....
State Gov't §§ 10-201 through 10-226 (2009), OAH's Rules of Procedure, COMAR 28.02.01,
and the Rules of Procedure of the Department, COMAR 09.01.03.

ISSUE

Did the Department properly deny the Applicant's application for a mortgage originator's
license?

SUMMARY OF THE EVIDENCE

Exhibits

The CFR submitted the following documents, which I admitted into evidence:

- CFR #1 Notice of Hearing, March 11, 2010
- CFR #2 Letter from Mark Kaufman, Deputy Commissioner, CFR, referring case to
 OAH for hearing, February 5, 2010
- CFR #3 Applicant's request for appeal hearing, received by CFR January 15, 2010
- CFR #4 Letter from Anne E. Ecker, Director of Licensing, CFR, to Applicant,
 December 7, 2009
- CFR #5 Applicant's online application for mortgage originator's license, 2009¹
- CFR #6 Virginia Courts Case Information System Report concerning Case No.
 CR05063374-00
- CFR #7 Virginia Courts Case Information System Report concerning Case No.
 CR05065393-00

The Applicant submitted the following documents, which I admitted into evidence:

- APP #1 Letter to OAH from Walter F. Jones, WestStar Mortgage, Inc., undated
- APP #2 Letter to the Department from Dr. Brad Weniger, Pastor, Central Baptist
 Church, April 6, 2010

¹ The precise date of the application is unclear. The parties agreed that the application was filed in July or August 2009.

- APP #3 Letter to the Department from Dr. Jack Patterson, Director, Lighthouse Baptist Ministries, Reclamation Ranch, April 25, 2010
- APP #4 Nationwide Mortgage Licensing System & Registry SAFE Mortgage Loan Originator Test scores for the Applicant
- APP #5 Letter from David A. Dixon, Jr., Superintendent, Reclamation Ranch, to Judge, Virginia Court, undated

Testimony

The Applicant testified on his own behalf. The CFR presented the testimony of Calvin I. Wink, Acting Assistant Commissioner of Enforcement, Complaints, Office of CFR.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. In July or August 2009, the Applicant filed an application with the CFR for a mortgage originator's license. As part of the application process, the Applicant disclosed his criminal history.
2. The Applicant is twenty-four years old, born January 13, 1986.
3. On April 20, 2006, in the Circuit Court for Prince William County, Virginia, the Applicant was convicted of possession of cocaine, a felony. (Case No. CR63374). The date of the offense was June 22, 2005. On June 9, 2006, the Circuit Court for Prince William County, (William D. Hamblen, J.) vacated the guilty finding and placed the Applicant on supervised probation.
4. On October 26, 2006, the Applicant was found guilty in the Circuit Court of Prince William County, Virginia, of possession of cocaine, a felony (Case No. CR65393). The date of the offense was July 27, 2006. On December 20, 2007, the Court sentenced the Applicant to incarceration with the Virginia Department of Corrections for a term of five years, all suspended, and placed the Applicant on supervised probation for three years. The Applicant

..... was ordered to enter into and successfully complete a substance abuse and rehabilitation
program.

5. On November 30, 2006, Judge Hamblen found that the Applicant violated the terms of his probation in Case No. CR63374. Consequently, Judge Hamblen struck the order entered on June 9, 2006, and entered a verdict of guilty to the charge of possession of cocaine. The Court sentenced the Applicant to five years of incarceration in the Virginia Department of Corrections, the term of which the Court suspended, except the portion of which the Applicant spent in custody awaiting the November 2006 hearing. The Court further sentenced the Applicant to enter and successfully complete the Reclamation Ranch Ministries program for a minimum of twelve months.

6. The Applicant entered the substance abuse program at Reclamation Ranch on December 13, 2006 and completed the program on or about April 25, 2010.

7. The Court has not vacated or modified the guilty verdicts in Case Nos. CR63374 or CR65393. The Applicant has not been pardoned for the offenses.

DISCUSSION

Maryland law governing mortgage loan originator licensing currently provides at as follows:

(a) *Required findings.* - The Commissioner may not issue a mortgage loan originator license unless the Commissioner makes, at a minimum, the following findings:

(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction;

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(i) During the 7-year period immediately preceding the date of the application for licensing; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering;

(3) The applicant has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently;

(4) The applicant has completed the prelicensing education requirement under §11-606 of this subtitle and any prelicensing education requirements established by the Commissioner by regulation;

(5) The applicant has passed a test that meets the requirements established under §11-606.1 of this subtitle and any prelicensing testing requirements established by the Commissioner by regulation; and

(6) The applicant has met the surety bond requirement under §11-619 of this subtitle.

Md. Code Ann., Fin. Inst. § 11-605(a) (Supp. 2009).

The Applicant does not dispute that he has two felony convictions within the past seven years. Acknowledging his criminal record, the Applicant asks that I consider that he has undergone rehabilitation for his substance abuse issues, has changed, and has worked hard to become an honest, trustworthy person.

I have considered that the Applicant has worked hard to change his life since he was convicted of the felonies in Virginia. His pastor and his employer speak highly of him. I have also considered the Applicant's arguments that he deserves a second chance and that the law is harsh as applied to him. The CFR, however, is required to administer the law; the law does not permit any consideration of any facts other than the Applicant's convictions. Based on the Applicant's felony convictions, I find that the law has been correctly applied to the Applicant.

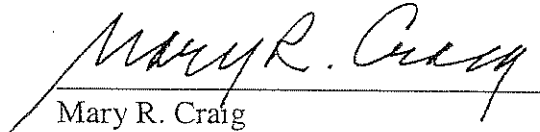
CONCLUSIONS OF LAW

I conclude as a matter of law that the CFR properly denied the Applicant's application for a mortgage originator's license. Md. Code Ann., Fin. Inst. § 11-605(a)(2)(i) (Supp. 2009).

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Commissioner of Financial Regulation deny the Applicant's application for a mortgage originator's license.

June 15, 2010
Date Decision Mailed


Mary R. Craig
Administrative Law Judge

MRC/brs
#113545